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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,640	06/10/2005	Detlev Schmidt	32860-000896/US	3719
30596 7590 06/17/2008 HARNESSE, DICKEY & PIERCE, P.L.C. P.O.BOX 8910 RESTON, VA 20195				
EXAMINER				
LUEBKE, RENTIE S				
ART UNIT		PAPER NUMBER		
2833				
MAIL DATE		DELIVERY MODE		
06/17/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/538,640

**Applicant(s)**

SCHMIDT ET AL.

**Examiner**

Renee S. Luebke

**Art Unit**

2833

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 and 9-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 9-12 and 16-18 is/are rejected.
- 7) ☒ Claim(s) 5, 13-15 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 March 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

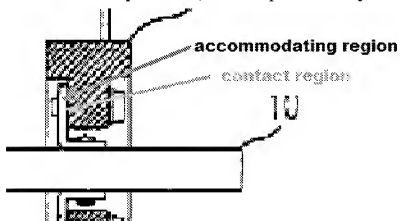
**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

1. Claims 2 and 3 are objected to because of the following informalities:
  - On line 3 of claim 2 it appears that “breaks” should be –breaker–.
  - On line 2 of claim 3, it appears that “and contact region” should be –and the contact region– (as in claim 9).Appropriate corrections are required.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-4, 6, 9-12 and 16-18 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Horikawa in view of Grytko ‘206. The breaker of Horikawa comprises a first contact arrangement 5, 6 for connecting a stationary contact to a first busbar 10, a second contact arrangement 3, 7 for connecting a lever attached contact 15 to a second busbar 11. The busbars both include an accommodating region and a contact region (annotated below). This structure allows the busbar to be “permanently arrangeable on a withdrawable part rack,” to be “permanently arrangeable on the outside of the



low voltage power circuit breaker” and to “permanently lockable on the withdrawable part rack” as claimed. As previously noted and conceded by applicant, the similar device of

Grytko teaches the use of screws 155 to permanently install, or lock, the breaker. The attachment structure (the screws and the related apertures) are outside of the breaker and do not affect its structure of operation. Since there are often times when a breaker should not be easily removable (vibrating

environments, for example), it would have been obvious to include the permanent attachment means of Gryctko on the device of Horikawa.

Applicant appears to argue that neither Horikawa nor Gryctko teach the use of the same busbars on the outside of a breaker and on the withdrawable part rack. However, the claims merely indicate that the busbars be capable of these arrangements. As such the are intended uses and a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In the present case there is no structural difference; the busbars of Horikawa, with the permanent attachments taught by Gryctko, are capable of the claimed use.

4. Claims 5, 13-15 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art fails to show or teach sufficient structure assuring that the busbars have the same installation depth when installed on both types of breakers.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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6. It is suggested that responses to this final action be faxed to:  
(571) 273-8300

Please refrain from sending a confirmation copy, as noted in 37 CFR 1.6(d) and 1.8(b).

Alternatively, responses may be mailed to:

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mrs. Renee Luebke at (571) 272-2009. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Tulsidas Patel, can be reached at (571) 272-2098.

*/renee s luebke/*

Renee S Luebke  
Primary Examiner  
Art Unit 2833  
June 9, 2008